82D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
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MOTOR CARRIER CLAIMS COMMISSION

JUNE 15, 1951.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WALTER, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 3208]

The Committee on the Judiciary, to whom was referred the bill (H. R. 3208) to amend the act creating the Motor Carrier Claims Commission (Public Law 880, 80th Cong.), having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the proposed legislation is to amend section 13 of the act of July 2, 1948 (62 Stat. 1222), creating the Motor Carrier Claims Commission, by extending the termination date for the exist ence of said Commission to June 30, 1953, or until such earlier time as said Commission shall have made its final report to Congress on all claims filed with it.

GENERAL INFORMATION

The Motor Carrier Claims Commission was established for the purpose of hearing and determining existing claims by motor-carrier transportation systems named in Executive Order No. 9462, dated August 11, 1944 (3 C. F. R., 1944 Supp.), for loss and damages sustained by them as a result of the seizure, operation, and use of their properties during World War II.

The motor carriers affected hauled approximately three-fourths of the motor freight in a 15-State Midwest area generally west and south of Chicago. The operations were principally centered in Illinois, Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, Iowa, Kansas, Missouri, Arkansas, Colorado, and Wyoming. For some time prior to 1944 these carriers were experiencing difficulty in meeting the demands for higher pay made by the labor unions of which their operative personnel were members. However, the War Labor

Board on February 7, 1944, ordered substantial wage increases. The carriers did not comply with the order, and on August 4, 1944, the unions struck.

On August 11, 1944, the President issued Executive Order No. 9462 (*supra*), directing that the carriers' properties be seized, used, and operated by the Government. The Office of Defense Transportation was directed to execute the order and, on the same date, a Federal Manager was appointed to take possession and control of the carriers. The Federal Manager was authorized to manage or operate, or arrange for the management or operation of the carrier system.

The Federal Manager took possession of the properties on August 11, 1944, and issued an operations order directing the carriers to resume operations. The carriers obeyed the order under protest. Upon taking possession the Federal Manager raised wages, took charge of labor relations and grievances, supervised freight-rate matters, froze all properties so as to prohibit their sale, transfer, or further encumbrance, and exercised other indicia of control. In some cases the owners were displaced and the carrier lines were operated directly by the Federal Manager, using Government employees.

It was the announced intention of the Federal Manager upon his assumption of control to release the carriers gradually, subject to certain conditions. Under the conditions prescribed the several carriers were restored to private ownership at various times within a period of approximately 15 months after their original seizure.

Following the termination of possession and control by the Federal Manager, a number of the carriers filed claims with the United States Court of Claims and with the Congress, averring that they had suffered heavy losses during the period of Government control for which they were entitled to reimbursement. As a result the Eightieth Congress created the Motor Carrier Claims Commission by the act of July 2, 1948 (62 Stat. 1222), to hear and determine these claims according to law.

Section 6 of the creative act provided that "the Commission shall receive claims for a period of 6 months after date of enactment of this act and not thereafter." Thus the original time for filing claims with the Commission was to expire January 2, 1949, but Congress subsequently acted to extend that period to April 2, 1950. Prior to the final date for the filing of claims, all but 5 of the 103 carriers named in Executive Order No. 9462 had filed claims with the Commission and, in addition, 5 other carriers claiming rights under the act filed claims with the Commission. The aggregate monetary amount of these 103 claims, without interest, was $39,133,839.57.

The termination date for the existence of the Commission was provided for in section 13 of the creative act, as follows:

> The existence of the Commission shall terminate at the end of 2 years after the first meeting of the Commission or at such earlier time after the expiration of the 6 months' period of limitation set forth in section 6 hereof as the Commission shall have made its final report to Congress on all claims filed with it. * * *

The Commission, which consists of a Chairman and two other members who are appointed by the President with the advice and consent of the Senate, held its first meeting on September 20, 1949, and thereby established September 20, 1951, as the termination date for the existence of the Commission.

The creative act charged the Attorney General with the duty of representing the Government in these claims before the Commission. Under the rules of procedure adopted by the Commission the first answer by the Government was due on April 24, 1950. The Attorney General, upon his request, was granted 30 days additional for answer in each case. Answers were not filed until May 24, 1950, and the filings extended on into June as they came due; the cases were all finally at issue in the early part of June 1950. The Commission sat in special session June 7, 1950, for the purpose of discussing the setting of cases for trial. Thereafter followed numerous hearings and conferences by counsel and the Commission in reference to the setting and hearing of the cases, and, in the meantime, preparation for trials began.

Notwithstanding the fact that it was maintained by the claimants that each case must rest upon its own particular facts and must be tried individually, it was agreed by the parties that the case of the *R-B Freight Lines, Inc.* v. *United States* (amount claimed $370,289.38), should be tried completely on all issues possible before the Commission sitting en banc. Thus the Commission would become familiar with the problems involved and the law applicable, and much time would be saved in the trial and hearings of all of the other cases.

The trial of this case on its merits began August 28, 1950, and proceeded intermittently (by reason of delays requested by both parties) until April 4, 1951, on which date the parties made an additional oral argument and the case was finally submitted to the Commission.

In the course of the trial, it was necessary for some of the hearings in this case to be held at Los Angeles, Calif. Depositions were taken at Chicago, Ill., and Sioux Falls, S. Dak. The transcript of evidence comprises approximately 2,000 pages. The petitioner filed 119 exhibits. Some of the exhibits were quite voluminous and others, consisting of accounting data, totaled 554 pages. In addition, petitioner filed an exhibit containing 26 pages of detailed mileage records of the various truck carriers and a copy of the report of the Federal manager of the 103 carriers under his control. The respondent, on its side, has filed 65 exhibits, including copies of reports made to the Interstate Commerce Commission.

The voluminous record compiled in this case largely results from the fact that both parties, and the Commission, have regarded it as a test case.

In the meantime, the taking of evidence before assistant commissioners (hearing officers) was begun in 43 other cases. The assistant commissioners will report their findings of fact in each case to the Commission; the Commission will consider exceptions to such findings and then hear argument prior to making a final determination. The remaining cases have all been calendared for hearing at later dates.

Although the Commission was due to end its existence on September 20, 1951, the status of the cases makes it mandatory that the termination date for the Commission be extended if the Commission is to discharge the responsibility with which it was charged under the creative act. The Commission has proceeded with reasonable dispatch but the size and scope of the claims filed with it, and the fact that almost 90 percent of the claimants are represented by the same attorneys and the Government has been represented by a limited staff, have prolonged the proceedings before the Commission. The

Commission is now in position to hear and determine the claims as rapidly as the parties are able to try them, but it is apparent that the life of the Commission must be prolonged to enable it to complete its work.

Under section 10 of the creative act it is required that the Commission shall promptly submit a report to Congress after the proceedings have been finally concluded in each claim. However, section 9 (a) provides that final determination of a claim by the Commission shall be subject to review in the same manner as is provided for cases in the Court of Claims, upon application to the Supreme Court within 3 months from the date of filing such final determination with the clerk of the Commission. Furthermore, if any of the determinations of the Commission are reviewed by the Supreme Court it is required, by section 10 (2) of the creative act, that the report of the Commission on the particular claim contain a transcript of the proceedings or judgment upon review, if any, with the instructions of the court.

For the reasons stated, it is the opinion of the committee that the termination date of the existence of the Motor Carrier Claims Commission should be extended to June 30, 1953, or until such earlier time as the Commission shall have made its final report to Congress on all claims filed with it, and recommends favorable consideration of the bill (H. R. 3208) to accomplish that purpose.

Appended hereto and made a part of this report is a letter dated February 26, 1951, from the Director of the Bureau of the Budget, transmitting to the Speaker of the House of Representatives a communication signed by the Chairman and Commissioners of the United States Motor Carrier Claims Commission.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., February 26, 1951.

Hon. SAM RAYBURN,
Speaker of the House, Washington, D. C.

MY DEAR MR. SPEAKER: At the request of the Chairman of the United States Motor Carrier Claims Commission, I am forwarding to you a letter from that Commission transmitting proposed legislation extending the life of the Motor Carrier Claims Commission until June 30, 1953.

Sincerely yours,

F. J. LAWTON, *Director.*

Enclosures: Letter from Motor Carrier Claims Commission and its enclosure.

MOTOR CARRIER CLAIMS COMMISSION,
Kansas City, Mo., January 26, 1951.

The PRESIDENT OF THE SENATE,
The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
Washington, D. C.

SIRS: With the approval of the Executive Office of the President, the Motor Carrier Claims Commission submits herewith a suggested bill, the effect of which would be to extend the life of the Motor Carrier Claims Commission beyond the termination date under existing law (September 20, 1951), for a period ending June 30, 1953. In connection with this suggested legislation, the attention of the Congress is respectfully invited to the facts set forth below.

The Motor Carrier Claims Commission was created by Public Law 880, Eightieth Congress (enacted July 2, 1948) to "hear and determine, according to law, existing claims against the United States arising out of the taking by the United States of possession or control of any of the motor-carrier transportation systems described in Executive Order No. 9462, dated August 11, 1944 (C. F. R., 1944 Supp. p. 70)." The act confers upon the Commission exclusive jurisdiction over

such of these claims as are presented to it. The determination of the Commission in each case (which is reviewable by the Supreme Court) is to be filed with Congress; and, under the terms of the act, the report of such determination "shall have the effect of, and be paid in the same manner as is provided for, a final judgment of the Court of Claims."

The Commission was not activated until September 19, 1949, when two of its members took the oath of office. Under the then existing law, claims could be filed with the Commission not later than October 2, 1949. Though there was then pending in Congress a proposed amendment extending the filing time, it could not at that time be assumed that this amendment would be adopted. Therefore, it was necessary for the Commission to make provision for claimants' filing of their claims within the time then allowed. In order to do this, the Commission advised the motor carriers described in Executive Order No. 9462 that they might present their claims informally by letter, telegram, or other writing, and that opportunity would subsequently be given for perfection of such claims. For the purpose of taking the above action, the Commission met on September 20, 1949, and thereby determined the date of the Commission's expiration, for the act provides that the existence of the Commission "shall terminate at the end of two years after the first meeting of the Commission * * *."

A short time later, by amendment contained in the Third Deficiency Appropriation Act (Public Law 343, 81st Cong.), Congress extended the time for filing claims to April 2, 1950. Thus, it will be noted that while claimants had six additional months within which to file, there was no corresponding extension of the life of the Commission; and it was not found possible to bring the claims to issue before the final filing date had passed.

The Commission proceeded with its organization and employed personnel only as needed. Since most of the claimants were located in a midwestern area covering 15 States, headquarters were established in Kansas City, Mo. Rules of procedure were adopted as of February 24, 1950; and 103 claimants completed and perfected the filing of individual claims in the total amount of $39,133,839.57, shortly before the final filing date, April 2, 1950.

Under the act creating the Commission, it is the duty of the Attorney General or his assistants to represent the United States in all claims presented to the Commission. Under the rules adopted by the Commission, service was made upon the Attorney General, and a period of 30 days was allowed for answer. As filings were completed, service was promptly perfected; however, it was not until sometime during the month of April 1950 that the Attorney General was able to assign a special assistant to the task of defending the Government against these claims. On April 24, 1950, the date upon which the first answer was due, the special assistant to the Attorney General appeared before the Commission and represented to the Commission that he had not had an opportunity to give sufficient study to the cases to prepare an answer in any of the cases at that time. He requested that he be granted an additional 30 days for such answer in each case. This request was granted. Answer was made in each case within the second 30-day period allowed, but this meant that it was not until May 24, 1950, that the first case was at issue.

When answers had been filed in all the cases, and as the Commission was beginning work on a calendar for the hearing of evidence in the respective cases, counsel for both claimants and the Government requested that a conference be held with the Commission on June 7, 1950, for the purpose of discussing the setting down of cases to be heard. This conference was held and, at that time, counsel for both claimants and the Government requested that two certain cases be placed first on the calendar and that a formal prehearing conference be held on both of these cases on June 28, 1950, the opinion being expressed by counsel that by that date considerable progress could be made in the matter of stipulation of facts which would materially shorten the trial time necessary in these and later cases. The Commission acceded to the request of counsel and set the prehearing conference for June 28, 1950.

At the time of the prehearing conference just referred to, it was represented to the Commission by counsel for both claimants and the Government that it was impossible for the parties to be ready to go to trial in either of the cases under consideration within less than 60 days, and it was requested that the hearing of the first case be set not earlier than August 28, 1950. Hearing of the first case was begun before the Commission on August 28th; but, after offering a portion of the testimony for claimant, counsel for the claimant requested adjournment

of the case upon the representation that it would require several weeks' additional preparation, principally in the assembling of accounting evidence, before the claimant's case could be carried forward to completion without interruption. Counsel for the Government voiced no objection to this request. After several conferences with counsel for both parties at which they stated that time allowed them for additional preparation and for conferences with each other would simplify the issues and shorten the trial time necessary, hearing of the evibence was finally resumed on October 16, 1950. After that date there were some few interruptions but none for extended periods of time, and the hearing of the evidence was concluded on December 2, 1950. At the conclusion of the evidence, the Commission set January 3, 1951, as the date for final argument of the case, before which both the claimant and the Government should submit briefs, and also proposed findings of fact if they so desired. Delay in receipt of the transcript of the evidence caused the claimant to request additional time and, in turn, the Government also requested additional time for filing its proposed findings and brief. Brief and proposed findings have been received from the claimant, and those of the Government are now due to be filed. Final argument is to be heard on January 29, after which the Commission will make its determination as soon as possible. The record in the case is quite voluminous, and some time will be required for thorough consideration. This case has been considered by both parties as a test case, and this fact has largely contributed to the size of the record, the volume of the evidence, and the number of legal questions raised for determination by the Commission.

In the meantime, the taking of evidence before Assistant Commissioners (hearing officers) has been begun in 43 other cases. These Assistant Commissioners are to report their findings of fact in each case to the Commission; the Commission will then consider any exceptions to such findings and, after argument, make the final determination.

The Commission expected all of the claims to be at issue within a very short time after April 2, 1950, and equipped itself for the hearing of evidence on the various claims at points throughout the area covered by the claimants, the evidence in most of the cases to be taken by Assistant Commissioners employed on the staff of the Commission. It was anticipated that at least four or five cases could proceed simultaneously. It developed, however, that the Attorney General found it possible to assign only one man to the defense of the Government in these claims. The Commission for some time continued to hoye that the special assistant to the Attorney General having charge of the work would be given several assistants, and this matter was discussed on various occasions by members of the Commission with officials of the Department of Justice. The special assistant in charge of the work for the Department of Justice proceeded with the assistance of only one stenographer, however, until January 8, 1951, when one assistant, an attorney, was assigned to him.

The Commission is of the opinion that it cannot consider the direction of the act, by which it was created that the Attorney General or his assistants represent the Government, as being addressed to the Attorney General alone. It is felt, rather, that this direction should be construed as meaning also that the Commission shall afford the Government, through the Attorney General or his assistants, a reasonable opportunity to make a proper defense. The Commission does not believe that it would have fulfilled its obligations under the act to hear and determine the claims if it should make reports to Congress based on only one side of the evidence, as the result of ex parte hearings. Since the Commission has no control whatever over the defense of the Government or over the assignment of men by the Department of Justice, the Commission has been able only to continually urge the parties to hasten the trial of cases, and to repeatedly suggest to the Department of Justice that a larger force of attorneys be assigned to the defense of the Government. Ultimately, however, the Commission has had to accommodate its schedule to the situation described.

On account of this situation, the Commission reduced its staff, the number of Assistant Commissioners (hearing officers) kept on duty being cut from five to two.

While it is represented to the Commission by counsel for both claimants and the Government that the experience of the trial of the first case and a study of the evidence adduced therein will enable the parties in other cases to complete their trial in a much shorter period of time than is required for the first case, it is still impossible for the Commission to predict the rate at which the cases can be completed. As noted above, the special assistant to the Attorney General does now have one

assistant. However, the presentation of the evidence by no means concludes the work of counsel for the Government or counsel for the claimant in any particular case. With briefs, arguments, and exceptions, and work on any possible appeals, it is still hardly possible for the taking of evidence in more than one case to be proceeding at all times.

It is provided by the act that, when the Commission makes a determination, such determination shall be filed in the office of the clerk of the Commission and that the parties have 3 months from the date of such filing within which to apply for review by the Supreme Court. Thus, in no case can the Commission make a report to Congress earlier than 3 months after the determination has been made.

It has been represented by counsel for both claimants and the Government that at least one case can be expected to be taken to the Supreme Court, and it is likely that at least two cases will have to be reviewed before the Supreme Court can have passed upon all of the basic legal questions.

The case of one of the claimants was tried in the Court of Claims. Certiorari was granted by the Supreme Court on petitions of both parties, and the case was argued in the Supreme Court on January 3, 1951. It has been suggested by some officials of the Department of Justice that the Supreme Court's decision in this case (*Wheelock* v. *United States*) might materially reduce the size of the task of the Commission. However, that case was not filed under the act creating this Commission, and it cannot be assumed that the action of the Supreme Court in that case will lay down a standard which can be accepted as an absolute guide for the actions of this Commission. At least, it cannot be assumed at this point that the action of the Supreme Court in that case will be such as to convince both parties to cases now pending before this Commission that they have no proper ground for review of a case filed under the Motor Carrier Claims Commission Act.

Suggestion has been made that the Commission might, by its determinations in a relatively few cases, establish rules which would govern other cases, and thereby shorten the period of time needed for completion of the work. Even if such rules are established, insofar as legal principles are concerned, each case must still be considered on its own facts. And, even if the parties should accept the rulings of the Commission as governing subsequent cases and should be able to agree on the facts in such cases, determination would still not become an automatic process. In each report to the Congress, the Commission must include its own findings of fact and its conclusions, with its reasons for both.

If any of the determinations of the Commission are reviewed by the Supreme Court, it will be necessary for the Commission to continue in existence until decisions in those cases have been handed down, so that reports can be made to Congress in the manner provided by law. (The act provides that reports shall contain "* * * (2) a transcript of the proceedings or judgment upon review if any, with the instructions of the Supreme Court * * *.") In the meantime other cases can be carried forward to the point of final determination, which determination must be held in abeyance pending any action of the Supreme Court.

In view of the above facts, it is the feeling of the Commission that, if its work is to be completed, it must suggest that the period of its operation should be extended for an additional period of approximately 2 years. In order that the closing of the business of the Commission may coincide with the end of a fiscal year, the termination date named in the suggested legislation submitted herewith is June 30, 1953. It will be noted that the proposed bill retains the provision that the existence of the Commission shall terminate "at such earlier time as the Commission shall have made its final report to Congress on all claims filed with it."

Respectfully submitted.

MOTOR CARRIER CLAIMS COMMISSION,
THOMAS W. O'HARA, *Chairman.*
ERNEST M. SMITH, *Commissioner.*
WILLIAM RANDOLPH CARPENTER, *Commissioner.*

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by this bill are shown as follows (existing law in which no change is made is

printed in roman; omitted matter is printed within black brackets; the new matter is printed in italics):

THE ACT OF JULY 2, 1948 (CH. 808, 62 STAT. 1222)

SEC. 13. The existence of the Commission shall terminate [at the end of two years after the first meeting of the Commission] *on June 30, 1953,* or at such earlier time [after the expiration of the six months' period of limitations set forth in section 6 hereof] as the Commission shall have made its final report to Congress on all claims filed with it. Upon its dissolution the records of the Commission shall be delivered to the Archivist of the United States.

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